

Senator Adam Kline

37TH LEGISLATIVE DISTRICT • SUMMER 2005



Dear Neighbors,

It was a very good year in Olympia. We took care of the Peoples' Business in good style, and put smiles on the faces of folks who truly appreciate government of the people, for the people, by the people. A few more sessions like this, and Government will no longer be a dirty word.

As I mentioned in the last newsletter, I'm now a member of the Senate Committee on Health and Long-Term Care, and newly immersed in a field of legislation I'd barely

understood before. After a full session, I am even more impressed by how little I know, and how much I have to learn. I've begun to meet with those of you who graciously answered my call for help—two docs, a nurse, a pharmacist, and my neighbor the UW researcher. Still, I have that feeling that comes over me on starting out on one of my mountain-climbing trips, about a mile up the glacier. *Oh boy, what have I got myself into now?*

So in this newsletter, I have two health-related articles. First, we managed a major improvement to our funding for treatment of chemical dependency, including involuntary treatment of those who are made dangerous to themselves or others, and also passed a "parity" requirement—that health insurance companies treat mental health needs the same as all other medical needs. Then I'll discuss the small step we took to make prescription drugs more available and less expensive.

This latter step drew opposition from the same drug companies that had successfully lobbied Congress to cause the problem we tried to solve. Still, we did what we could.

Then I get to rant once more about taxes. (Oh, I suppose you could skip that part, but this is always such fun to write.)

Then three Honorable Mentions: re-naming our county for Rev. Dr. Martin Luther King, Jr.; coming oh so close to passing the Gay and Lesbian Civil Rights Bill; and addressing racial disparity in drug prosecutions.

I love this job. Every day in Olympia, on every issue, my District and my conscience tell me the same thing. I am truly blessed.

Peace and Freedom,

Adam Kline

Major Improvements in Mental Health and Drug Treatment

Among our brag-worthy deeds this year, I'd start the list with our sweeping changes to the way we treat our mentally ill and drug-dependent folks. After nine sessions, I see this as part of a trend. You may recall the bill some years back in which we reduced sentences for some street-level drug possession offenses typically committed by addicts, and used the saved money to fund drug-treatment. This year's bills follow generally in that vein, not only in drug-treatment but in mental health services involving behavior that otherwise might be criminal. The common thread: we are identifying illnesses which in some instances cause criminal behavior, and finally—finally—treating the illness instead of just punishing the behavior. Hallelujah!

Let's start the list with the Mental Health Parity Bill, HB 1154. We required insurance companies to treat mental illnesses the same as any physical illness: the same coverage limits, the same co-payments, deductibles, coinsurance, out-of-pocket maximums, and visit limits. The insurance industry has historically dragged its feet on this, partly out of concern for malingering, and partly due to an unjustified fear that the cost, borne by all policy-holders, will make health insurance even more unaffordable. We can now say categorically that they were wrong, because while we've been having this argument here in Washington these past eight years,

34 other states have enacted some measure of mental health parity, and that has not been their experience.

Each year, nearly 10 million children in the US suffer from diagnosable mental illness, as do more than 45 million adults. But fewer than one in five of those children, and only a third of those adults, receive professional treatment. The price they—and the rest of us—typically pay for untreated illness is high: children who do poorly in school, adults missing work or working less productively, not to mention that very small percentage whose illness results in violent behavior. Still, that small percentage is a large enough number; the largest populations of people with psychiatric problems are not in the state Department of Social and Health Services (DSHS), but in Corrections. These are not merely economic losses, but human costs on a grand scale. In the public sector, we know all too well the high human and dollar cost of incarcerating people for crimes committed because of untreated mental illness.

An even greater trend is building up in our laws on involuntary treatment. I recall, when I was a young Legal Services lawyer in 1973-75, that my senior colleagues joined with the ACLU in several high-profile cases taking on the authority of the state to force psychiatric treatment upon an unwilling patient, opposing what I then saw as the abuse of state power. The Involuntary Treatment Act (ITA), passed in 1972, required the treat-

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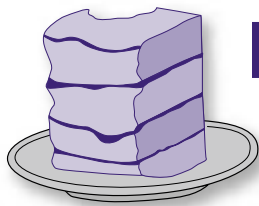
ment of anyone who was found by a court to be “dangerous to self or others, or gravely disabled.” The philosophy behind the act was that treatment was not just for the benefit of the individual, but for the benefit of society, that it is better to *treat* individuals, even against their will, than to incarcerate them without treatment. There is indeed a societal interest, but we have to balance against it the interest of an individual in personal dignity and privacy. I believe that with the help of the courts, we’ve done so.

We also passed legislation that same year authorizing involuntary treatment of drug users, by petition of the county, using the same standard: “dangerous to self or others.” Unlike the ITA, this act leaves it to the prosecutor’s discretion whether to seek treatment when dangerousness is a result of chronic drug use rather than illness. If there is a societal interest, that discrepancy makes no sense whatever. This past session, in the Omnibus Treatment of Mental and Substance Abuse Disorders Act (SB 5763), we took an initial step toward making this treatment mandatory. To be sure, this is just a series of pilot programs, three years long, in both urban and rural areas. One will combine the two systems and create a single crisis responder with authority to initiate ITA proceedings, and add a secure detox facility. The other will go further in providing intensive case-management for drug or alcohol abusers who are also “high users of emergency medical, crisis, and correctional services,” better known as “frequent fliers.”

In my view, this is a twofer: on the one hand, we get to intervene more forcefully than we have in the broken

lives of users, using a little tough love, whether they like it or not. On the other, we do what our critics imply can’t be done: we save dollars in the long run by spending some more up front. Those emergency room visits, crisis calls, hospitalizations, and months in jail have been much more costly than even the millions we’ll put into mental health and substance abuse treatment. In the long run, if we continue past the pilot phase, these savings will more than pay back our initial outlay. Just watch. *We could save money because we raised taxes.*

Additional tax revenue will also be spent on expanding the treatment programs run by DSHS for chemically-dependent folks who are Medicaid-eligible, up to 50% of the identified need. Our initial goal, by 2007, is to treat half the eligible people who apply—we are hardly overdoing this. Immediate action will be taken for pregnant women and parents of young children. At the county level, we authorized another one-tenth of a penny in sales tax, and required that counties using this tax establish drug courts for families involved in child-dependency cases. We also made sure that prisoners (who are ineligible for Medicaid while incarcerated) are screened while in custody and their eligibility known before release, so treatment can start before temptation. This latter change, apparently so minor, is in fact likely to have a major effect in slowing down the revolving door by which prisoners are released, get high, and re-offend. This slight change is emblematic of the truly conservative nature of this bill, its goal of saving both public dollars and human lives, by spending preventatively. But all of this is done by state action that costs up-front money, which we could not have if our sole obsession was with cutting taxes.



Let Them Eat Cake

Remember what a lousy job Congress did last year on prescription drugs? Remember the interviews with retired folks who have to slice their pills in half to make their supply last the month? Folks who have to choose between their medicines and food? Congress, following that famous political advice of Marie Antoinette, passed a federal law that prohibits importing drugs from Canada or other countries—supposedly for safety reasons, but in fact to preserve the huge profit-margins of manufacturers who charge 30-80% higher prices in the US. The party that so loudly worships the free market created an artificial distortion in the market for life-saving drugs that have become unaffordable even to middle-income folks.

This, I believe, was a transparent move by the Congressional majority party to pay back some of its most generous corporate sponsors. (I know you’re *shocked*.) This

cynical move was also intended to render the states powerless to attack the protections given to the drug-makers, no matter how many frail, elderly, low-income people would suffer and even die as a result, for federal law trumps state laws on the same subject. (So the party of states’ rights....oh, never mind.)

Look, I took an oath to support the Constitution of the United States and of the State of Washington, and I went to law school and I know about federal pre-emption and states’ rights—but this was Congress openly inviting 50 state legislatures to commit acts of civil disobedience. I didn’t mind serving time for that in the old days, and what 60-year-old doesn’t want to re-live the old days? And we’re right next door—we have 5.7 million patients within driving distance of Canada! Yo, says I, let’s do it! Let’s make the feds sue us, make them explain why people who need their medicines for survival should have to pay 30-80% more for them.

Sorry, cooler heads prevailed. We did in fact have a bill to simply allow importation of prescription drugs from Canada, but it was a House bill, HB 1168, and by the time it passed it was modified to merely request a waiver by the FDA, the federal agency that administers all Congressional acts relating to prescription drugs. It would, if the FDA approves, authorize our state Department of Health to inspect Canadian retail pharmacies, and allow Washingtonians to buy from them either in person or by mail. The Senate passed SB 5470, a similar waiver request as to Canadian and other foreign wholesalers, from which Washington retail pharmacies would buy. Both bills passed and were signed by Gov. Gregoire.

So our Department of Health gets to write the Bush administration a letter asking, pretty please, that it allow at least one of the 50 states to look out for the health of its citizens rather than the profits of the drug industry. Whoopee.

Painting by Numbers

While I'm on the subject of taxes, I am outraged that the Department of Revenue has taken it upon itself to re-write the tax laws in favor of the very rich. That is our right as legislators and Initiative-signers, and must never be usurped by mere bureaucrats.

You may recall seeing this story in the P-I. During late 2003 and 2004, Linda Fryant, an investigator in the Department, did her job well, and uncovered out-of-state purchases of art, later brought into the state by collectors, for which the use tax was never paid. (Use tax is due in place of sales tax, and at the same rate, when the purchase is not in Washington but the item is brought in and used here—whether it's office equipment, power tools, or a painting.) Yet the tax is hard to enforce and easy to evade—which is why the Department

hires investigators like Ms. Fryant. She discovered the Mother Lode of uncollected use taxes, an estimated \$100 million due, based on art purchased out-of-state and brought here during the last four years, on which the statute of limitations hadn't yet expired. For her pains, she was "assigned to her home," this past December, and her supportive boss was demoted to a lower-paying job, an action taken by upper management. The Department explains this by saying that part of its job is to be nice to taxpayers. A new Director of Revenue is investigating. I



a job for the State Department. I have requested a step in. The Department was currently being a

whole lot nicer to wealthy art collectors than to some ordinary guy who brings home an old beater car from Oregon. This differential treatment—not to mention its cavalier attitude toward the public's right to that \$100 million dollars—is precisely what incites the taxpayers to self-destructive behavior like signing tax-cutting initiative petitions. That cool \$100 million would subsidize prescription drugs for low-income elderly patients, and quadruple the amount we spend on early-learning programs for kids, and provide college tuition assistance for every kid accepted at every state college, and with the amount left over we could plug the hole in the state ferry system.

We legislators, not those bureaucrats, have the fundamental right under our state

Budget and Taxation

Remember that \$1.6 billion budget-deficit we faced when we were developing our biennial budget this session?

Cuts in that entire amount, similar to Gov. Locke's No New Taxes budget for last biennium, coming during a downturn in the national economy, would have had a devastating impact on our state.

At least we avoided going entirely down the road of No New Taxes. We increased the cigarette tax by 60 cents a pack, increased the liquor and cigar taxes, and moved up the payment schedule for the real estate excise tax. Those and a few other minor increases totaled a little more than \$385 million, not quite one-quarter the deficit.

We also reinstated the Estate Tax that the Supreme Court had invalidated because our statute referred to a percentage of the federal tax, which Congress had repealed (sort of). In doing so, we rolled the threshold back. Instead of taxing every estate of \$1 million or more, it will now reach only estates of \$1.5 million or more in the 2005 calendar year, and \$2 million or more thereafter. Farm property is exempt. By definition, this is a tax on millionaires only—and starting next year, on multi-millionaires only. With the change, its projected revenue, \$138.7 million for the biennium, is about third less than before.

Then there was a controversial move: we found \$232.8 million in one-time "fund transfers" from accounts we'd earlier set up for specific purposes. Most of the fund transfers removed allocated funds that weren't spent in the 2003-05 biennium because programs ended up costing less than projected. For example, we took \$45 million in unspent funds from the Health Services Account, which funds programs like the Basic Health Program, and we took back \$10.3 million from the State Convention and Trade Center. Some of the other transfers were actually a one-time decision to not "top off" funds that are mandated by statute. For example, our state Clean Water

Act mandates that we make sure in the beginning of each biennium that there is \$90 million in the Centennial Clean Water Fund. These funds are used for a whole host of projects, from massive oil spill cleanups and secondary sewage treatment plants to stream restoration projects for elementary school children. Statute mandates that we top off these funds from the General Fund. During the last month of session, the Senate Ways and Means Committee proposed making a one-time move to not allocate the \$39 million from the General Fund that was necessary to top off this fund. Progressive environmental advocates worked very hard at the end of the session to insure that all but \$5 million of that \$39 million was replaced by a funds from state bonds and funds from other accounts. I've been assured there's little chance the whole Clean Water Fund will be needed in the two years until we write the next Budget. Still, clean water is a priority to most of us, so I'm uncomfortable leaving this account depleted.

We also took \$13.9 million from the Tobacco Account, which we'd established for smoking-cessation programs, using funds from the settlement of the nation-wide lawsuit. The Governor, whose good work as Attorney-General helped get that settlement, felt strongly enough to veto that transfer. She left the other transfers intact.

What you didn't read in the headlines was that we made up the other \$618.1 million in service cuts. Some of these cuts were to small, but important, programs, such as the \$5.7 million cut to the Washington State Reading Corps. We also made several cuts to vital programs that will supposedly result in little harm to the people currently served by those programs. For example, we made a \$5 million reduction to grant funds for low-income community clinics. This cut was made in tandem with the restoration of medical assistance coverage for undocumented immigrant children and the resumption of some Medicaid funding for children; the restoration of these funds supposedly reduces the need

constitution to give that money to the very, very rich in the form of tax breaks. We pandered to the No New Taxers when we did what I-695 was designed to do—get rid of one of the two progressive taxes we had, the MVET, which taxed Bentleys more than beaters. We pander to the very, very rich when we refuse to pass an income tax that would effect only those earning more than \$100,000 per individual, \$200,000 per couple. Even our last remaining progressive tax, the estate tax, will soon have a threshold of \$2 million, up from the \$1 million lower limit it had before, so now some multi-million dollar estates will go untaxed.

Doggone it, pandering to the rich is our sacred constitutional duty, and we will not stand idly by while it is usurped by a bunch of upstart bureaucrats!

for the \$5 million in grant funds. We also made a \$18 million cut to the General Assistance Unemployable Program (GA-U). We did this because we anticipate that changes we made in other programs—such as providing improved mental health services—will reduce the need for GA-U funds.

But inevitably, these types of cuts will cause problems for people who aren't eligible for the other programs designed to pick up the slack. Our "safety net" is so tattered from a decade of irresponsible cuts that there are plenty of holes for people to fall through. Sure, we made a lot fewer hazardous cuts in this budget, but we didn't do all that much to make up for the previous cuts to vital services. We'll pay for it and then some, down the road.

The problem with just raising more revenue is not just the obvious--that folks are in no mood to pay for government services, no matter how needed--but rather that our existing tax structure is so regressive. Progressive taxes, the ones that reach the people most able to pay, have been repealed (like the MVET), or have been reined in (like the estate tax), or just never imposed in the first place (like the income tax). As a result, we have the country's overall most regressive tax structure. While the super-wealthy are all but immune from state taxation of either income or assets, the poor are targeted mercilessly. We are now the single most reliant state on the most regressive form of taxation, the retail sales tax, which now accounts for some 54.7% of our state revenue stream, and is expected to be 57% of revenues in 2005-07. We're head and shoulders above other states in this shameful statistic. So just raising existing taxes won't do. We need to re-structure our taxes from the bottom up, systematically.

Last Budget, in 2003, I voted to increase the tax on beer. This year, it was liquor and cigarettes. I won't vote for those



sin taxes again. The first time around for each of those, we made smokes too expensive for most kids, and gave the non-addicts a chance to make a new risk-benefit analysis of their drinking and smoking habits, to take cost into account. Fine, from both a health and revenue viewpoint. But at some point, after kids and the non-addicts have quit, if we keep upping the sin taxes, all we're really doing is taxing the addicts. Many of these are low-income people who are paying these taxes with their kids' lunch money. I won't vote for this any more.

I wish I could just urge you to call your friends and ask them to urge their legislators to fund some particularly crucial unmet needs, and think that you and I are doing something positive. But that won't help. The issue that counts is no longer our spending priorities, but taxation, and there is no majority in the Legislature that will go there. As to the Governor, I think personally that she gets it, but she had to contend all this past session with the Republicans' lawsuit over her election, which left her politically weakened, as intended. Further, her opponent in the 2004 Democratic primary, Ron Sims, raised all the right issues and came out for an income tax--then lost, 68% to 32%, and that's in a Democratic primary, with only Democrats allowed to vote. So what's the lesson that every thinking politician takes away from that? That we are not going to deal with the 800-pound gorilla in the middle of the room.

HONORABLE MENTIONS

Racial Disparity in Drug Arrests

I've initiated a series of meetings with law enforcement officials and prosecutors to discuss a topic close to my heart, the clear racial disparity in low-level drug arrests. The Sentencing Reform Act (SRA) has, to most folks' satisfaction, corrected the problem in *sentencing*. But the disparity in *arrests* continues, and I see no easy, publicly-acceptable way to deal with this issue. It's not like I have some idea for a bill and want to run it past law enforcement officials for support. I just want to discuss whether there is some way to effect a change in policy, so that as much attention is paid to the mid-level and upper-level dealers, many of whom I suspect are not addicts, as is paid to the guys dealing on the street, almost all of whom are dealing to feed their habits. To be sure, the evil I want to address isn't just the racial disparity, but the extent to which the criminal process is aimed at people who are

more likely to be compelled by addiction to act illegally, rather than to those who more likely act for profit.

This issue came up during the development of the recent (well, 2002) changes in drug sentencing, when we reduced the sentences for possession and possession-with-intent-to-sell, and required judges to impose successful completion of drug-treatment in a community-based setting as a condition to full release. The Superior Court Judges pointed out, I think correctly, that with the SRA in place for 20 years, the higher number of African-Americans serving time for drug offenses is no longer the result of significant bias in sentencing, but is rather an effect of the disparate numbers of African-Americans arrested. Put bluntly, these are the dealers most visible on the street, and most subject to political pressure from downtown residents and

merchants. To the extent that higher-level dealers have businesses to use as covers for illegal activity, they excite less public opposition and therefore less scrutiny by the police.

So far, I've met with the leadership of the Washington Association of Sheriffs and Police Chiefs, with more meetings scheduled with the Prosecutors Association, and with local prosecutors and police officials. Federal officials will also be consulted, since the feds prosecute more high-quantity sellers. This is a matter that can't be addressed by a bill in the usual way: we can't ordain a change in street-level law enforcement policy. We can, however, discuss the allocation of money by the state and large cities to *specific* police functions. That may be the way to persuade the guys in blue to go further up the supply-chain to nail the real monsters, those who profit on the misery of others.

King County Now Named in Honor of Rev. Martin Luther King, Jr.

For eight of my nine years in the Senate, I had filed a bill which read in its entirety, "King County is named in honor of the Rev. Dr. Martin Luther King, Jr." For seven of those years, I was told by Republicans that "we can't re-

write history." Our county had in fact been named after Rufus DeVane King, a slaveholder and former Senator from Alabama, who served as Vice President under Pierce. Finally, with a Democratic majority and with the bill's

most vociferous opponent no longer in the Senate, SB 5332 passed. And it passed unanimously—with all of the votes of those same Senators who had lectured me about re-writing history. Seems they just can't vote against Dr. King when they're on the record.

The bill requires no spending and provides no funds. One of my favorite County Councilmembers gets to call it "Martin Luther King County," but that's his unofficial name for it. And yes, the bill is a purely symbolic statement—it provides no assistance to K-12 education, no college scholarships, health coverage, consumer protection, minimum wage, none of that. I admit that it's entirely unimportant to those who don't understand the history of our country in this last century. But if it succeeds in reminding young people of the potential in non-violent political action, if it brings a moment of reflection on the sense of the Beloved Community, then I'm just one happy boy.



King County Executive Ron Sims, Sen. Adam Kline and Governor Christine Gregoire.

So Close, So Close: Civil Rights Bill

I received a lot of correspondence from y'all a few months ago when the Gay and Lesbian Civil Rights bill (HB 1515) missed passage in the Senate by one vote. Like all of you who shared your feelings with me, I was greatly saddened that we failed to pass HB 1515. I'm also appalled at some of the embarrassing statements made by some of my colleagues against the bill. I knew we didn't have the votes and that we were bringing this to the floor to make a statement. But I did expect my conservative colleagues to confine their opposition to more-or-less mainstream fallacies, not to reach back to old stereotypes. For several days, I was apologizing for the embarrassing statements made by some of my colleagues on the Senate Floor, including some who clearly knew better than to say what they did. I felt as if we'd been pushed back a decade or so. Why, I asked myself, do elected officials in the

year 2005 feel compelled to stand in the schoolhouse door?

I've been getting many e-mails from my gay and lesbian constituents lately, and from lots of folks who are, as we say, "straight but not narrow." This correspondence has reminded me that spring will still come, that we'll have this battle again (and again and again), and that in the end we will prevail. I have some hope in the eventual perfectibility of humankind--not perfection, but that kind of always-approaching-the-line that mathematicians have a name for. There is a certain inevitability about the trend we see in our wider society, in which the generation of people now in their 30's and younger have a vastly different attitude about gay sexuality, as they do about sexuality in general. I am sorry to you personally, and to every sentient Washingtonian, that so many of my fellow "leaders," for reasons they

can barely articulate, are content to postpone the day of justice.

I recall, as a 20-year-old, feeling frustrated that the campaign for racial equality was not being won as quickly as I felt it ought to be. But let's not forget the most important fact: it is indeed being won. Growing public opposition, like waves on a shore, continues to erode the resistance built up over generations. The older I get, and the more familiar I am with human nature, the more I accept that this change, too, will take a generation.

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